

106TH CONGRESS  
2D SESSION

# H. R. 5463

To amend the Internal Revenue Code of 1986 to affirm the confidentiality of closing and similar agreements and agreements with foreign governments.

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## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 12, 2000

Mr. HOUGHTON (for himself, Mr. SAM JOHNSON of Texas, and Mr. LEVIN) introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to affirm the confidentiality of closing and similar agreements and agreements with foreign governments.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. CONFIDENTIALITY OF CERTAIN DOCUMENTS**

4 **RELATING TO CLOSING AND SIMILAR AGREE-**  
5 **MENTS AND TO AGREEMENTS WITH FOREIGN**  
6 **GOVERNMENTS.**

7 (a) CLOSING AND SIMILAR AGREEMENTS TREATED  
8 AS RETURN INFORMATION.—Paragraph (2) of section  
9 6103(b) of the Internal Revenue Code of 1986 (defining

1 return information) is amended by striking “and” at the  
 2 end of subparagraph (B), by inserting “and” at the end  
 3 of subparagraph (C), and by inserting after subparagraph  
 4 (C) the following new subparagraph:

5 “(D) any agreement under section 7121,  
 6 and any similar agreement, and any back-  
 7 ground information related to such an agree-  
 8 ment or request for such an agreement,”.

9 (b) AGREEMENTS WITH FOREIGN GOVERNMENTS.—

10 (1) IN GENERAL.—Subchapter B of chapter 61  
 11 of such Code (relating to miscellaneous provisions) is  
 12 amended by inserting after section 6104 the fol-  
 13 lowing new section:

14 **“SEC. 6105. CONFIDENTIALITY OF INFORMATION ARISING**  
 15 **UNDER TREATY OBLIGATIONS.**

16 “(a) IN GENERAL.—Tax convention information shall  
 17 not be disclosed.

18 “(b) EXCEPTIONS.—Subsection (a) shall not apply—

19 “(1) to the disclosure of tax convention infor-  
 20 mation to persons or authorities (including courts  
 21 and administrative bodies) which are entitled to such  
 22 disclosure pursuant to a tax convention,

23 “(2) to any generally applicable procedural  
 24 rules regarding applications for relief under a tax  
 25 convention, or

1           “(3) in any case not described in paragraphs  
2           (1) or (2), to the disclosure of any tax convention  
3           information not relating to a particular taxpayer if  
4           the Secretary determines, after consultation with  
5           each other party to the tax convention, that such  
6           disclosure would not impair tax administration.

7           “(c) DEFINITIONS.—For purposes of this section—

8           “(1) TAX CONVENTION INFORMATION.—The  
9           term ‘tax convention information’ means any—

10           “(A) agreement entered into with the com-  
11           petent authority of one or more foreign govern-  
12           ments pursuant to a tax convention,

13           “(B) application for relief under a tax con-  
14           vention,

15           “(C) any background information related  
16           to such agreement or application,

17           “(D) document implementing such agree-  
18           ment, and

19           “(E) any other information exchanged pur-  
20           suant to a tax convention which is treated as  
21           confidential or secret under the tax convention.

22           “(2) TAX CONVENTION.—The term ‘tax conven-  
23           tion’ means—

24           “(A) any income tax or gift and estate tax  
25           convention, or

1           “(B) any other convention or bilateral  
 2           agreement (including multilateral conventions  
 3           and agreements and any agreement with a pos-  
 4           session of the United States) providing for the  
 5           avoidance of double taxation, the prevention of  
 6           fiscal evasion, nondiscrimination with respect to  
 7           taxes, the exchange of tax relevant information  
 8           with the United States, or mutual assistance in  
 9           tax matters.

10       “(d) CROSS REFERENCES.—

**“For penalties for the unauthorized disclosure of  
 tax convention information which is return or re-  
 turn information, see sections 7213, 7213A, and  
 7431.”.**

11           (2) CLERICAL AMENDMENT.—The table of sec-  
 12           tions for subchapter B of chapter 61 of such Code  
 13           is amended by inserting after the item relating to  
 14           section 6104 the following new item:

“Sec. 6105. Confidentiality of information arising under treaty  
 obligations.”.

15           (c) EXCEPTION FROM PUBLIC INSPECTION AS WRIT-  
 16           TEN DETERMINATION.—

17           (1) CLOSING AND SIMILAR AGREEMENTS.—  
 18           Paragraph (1) of section 6110(b) of such Code is  
 19           amended to read as follows:

20           “(1) WRITTEN DETERMINATION.—

21                       “(A) IN GENERAL.—The term ‘written de-  
 22           termination’ means a ruling, determination let-

1           ter, technical advice memorandum, or Chief  
2           Counsel advice.

3           “(B) EXCEPTIONS.—Such term shall not  
4           include any matter referred to in subparagraph  
5           (C) or (D) of section 6103(b)(2).”.

6           (2) AGREEMENTS WITH FOREIGN GOVERN-  
7           MENTS.—Paragraph (1) of section 6110(l) of such  
8           Code is amended by inserting “or 6105” after  
9           “6104”.

10          (d) EFFECTIVE DATE.—The amendments made by  
11       this section shall take effect on the date of the enactment  
12       of this Act.

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